

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHERYL B.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:21-cv-10268

Honorable Thomas L. Ludington
United States District Judge

Honorable David R. Grand
United States Magistrate Judge

**OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION AND
GRANTING PLAINTIFF'S MOTION FOR ATTORNEY'S FEES**

On February 5, 2021, Plaintiff Cherly B. filed a complaint challenging the Commissioner of Social Security's final decision denying her application for Disability Insurance Benefits. ECF No. 1. On September 9, 2021, Plaintiff filed a motion for summary judgment. ECF No. 16. On October 8, 2021, based on the Parties' Stipulation, this Court issued a judgment remanding the case for further consideration by the Administrative Law Judge (ALJ) under 42 U.S.C. § 405(g). ECF Nos. 17; 18. On December 22, 2021, this Court issued a stipulated order awarding Plaintiff Counsel Bethany G. Versical \$4,637.50 in attorney's fees under the Equal Access of Justice Act (EAJA), 28 U.S.C. § 2412. ECF No. 19.

Plaintiff prevailed on remand. On May 11, 2024, the Social Security Administration (SSA) awarded her \$173,851.00 in past-due benefits. ECF No. 20-2 at PageID.1936. Two weeks later, Attorney Versical filed a motion seeking \$17,902 in attorney's fees under 42 U.S.C. § 406(b). ECF No. 20. Notably, Attorney Versical only represented Plaintiff in the instant federal proceeding. *Id.* at PageID.1902. Kwitoski & Associates—a law firm that employs Attorney Versical—represented Plaintiff throughout her administrative proceedings and will separately seek fees from the SSA

totaling \$25,462. *Id.* Attorney Versical acknowledges that she will reimburse Plaintiff the \$4,637.50 in fees she received under the EAJA. *Id.* at PageID.1909.

Attorney Versical's Motion was referred to Magistrate Judge David R. Grand, ECF No. 21, who issued a Report and Recommendation (R&R) on September 27, 2024. ECF No. 22. Judge Grand concluded that the proposed award was proper and recommended this Court grant Attorney Versical's Motion in its entirety. *Id.* at PageID.1977.

Judge Grand provided the Parties 14 days to object, *id.*, but the Parties did not do so. Thus, they have forfeited their right to appeal Judge Grand's findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)). There is no clear error in Judge Grand's R&R.

Accordingly, it is **ORDERED** that Judge David R. Grand's Report and Recommendation, ECF No. 22, is **ADOPTED**.

Further, it is **ORDERED** that Attorney Versical's Motion for Attorney's Fees, ECF No. 20, is **GRANTED**.

Further, it is **ORDERED** that Plaintiff Counsel Bethany G. Versical is **AWARDED \$17,902.00** in attorney's fees, to be withheld from Plaintiff's past-due disability benefits award.

Further, it is **ORDERED** that, upon receipt of this attorney's fees award, Plaintiff Counsel Versical is **DIRECTED** to reimburse Plaintiff **\$4,637.50** that was awarded under the Equal Access to Justice Act.

Dated: October 17, 2024

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge